

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. LAMAR WARDELL SWAIN
(Counts 1-5, 7-8, 10)

2. JAVONTE MICHAEL SWAIN
(Counts 1-6, 8-9)

Defendant.

Case No.

I N D I C T M E N T

18 U.S.C. § 922(a)(6)

18 U.S.C. § 924 (c)

21 U.S.C. § 841(a)(1)

21 U.S.C. § 846

FORFEITURE

WALTER H. RICE

The Grand Jury charges:

COUNT ONE

[21 U.S.C. §§ 846 & 841(b)(1)(C)]

Between in or around May 2021 and in or around March 2022,
in the Southern District of Ohio, defendants **LAMAR WARDELL SWAIN**
and **JAVONTE MICHAEL SWAIN** knowingly and intentionally conspired
to possess with intent to distribute and to distribute:

a. a mixture or substance containing a detectable amount of fentanyl, also known as N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl], a Schedule II controlled substance; and

b. a mixture or substance containing a detectable amount of cocaine, a Schedule II controlled substance; in violation of Title 21, United States Code, Sections 841(a)(1).

All in violation of Title 21, United States Code, Section 846 and 841(b)(1)(C).

COUNT TWO

[18 U.S.C. § 924(c)(1)(A)(iii)]

On or about May 7, 2021, in the Southern District of Ohio, defendants **LAMAR WARDELL SWAIN** and **JAVONTE MICHAEL SWAIN** knowingly used, carried, and discharged a firearm during and in relation to a drug trafficking crime for which they may be prosecuted in a court of the United States, namely - conspiracy to possess with intent to distribute controlled substances in violation of Title 21, United States Code, Section 846, as alleged in Count One of the Indictment.

In violation of Title 18, United States Code, Section 924(c)(1)(A)(iii), and *Pinkerton v. United States*, 328 U.S. 640 (1946).

COUNT THREE

[21 U.S.C. §§ 841(a)(1) & (b)(1)(C)]

On or about May 17, 2021, in the Southern District of Ohio, defendants **LAMAR WARDELL SWAIN** and **JAVONTE MICHAEL SWAIN**, aiding and abetting each other, knowingly and intentionally possessed with intent to distribute:

a. a mixture or substance containing a detectable amount of fentanyl, also known as N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl], a Schedule II controlled substance; and

b. a mixture or substance containing a detectable amount of cocaine, a Schedule II controlled substance.

In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C), Title 18, United States Code, Section 2, and *Pinkerton v. United States*, 328 U.S. 640 (1946).

COUNT FOUR

[18 U.S.C. § 924(c)(1)(A)(i)]

On or about May 17, 2021, in the Southern District of Ohio, defendants **LAMAR WARDELL SWAIN** and **JAVONTE MICHAEL SWAIN**, aiding and abetting each other, knowingly possessed a firearm in furtherance of a drug trafficking crime for which they may be prosecuted in a court of the United States, namely - possession with intent to distribute controlled substances, in violation of Title 21, United States Code, Section 841(a)(1), as alleged in Count Three of the Indictment.

In violation of Title 18, United States Code, Sections 924(c)(1)(A)(i), Title 18, United States Code, Section 2, and *Pinkerton v. United States*, 328 U.S. 640 (1946).

COUNT FIVE

[21 U.S.C. §§ 841(a)(1) & (b)(1)(C)]

On or about January 27, 2022, in the Southern District of Ohio, defendants **LAMAR WARDELL SWAIN** and **JAVONTE MICHAEL SWAIN**, aiding and abetting each other, knowingly and intentionally distributed a mixture or substance containing a detectable amount of fentanyl, also known as N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl], a Schedule II controlled substance.

In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C), and Title 18, United States Code, Section 2.

COUNT SIX

[21 U.S.C. §§ 841(a)(1) & (b)(1)(C)]

On or about February 10, 2022, in the Southern District of Ohio, defendant **JAVONTE MICHAEL SWAIN**, aiding and abetting each other, knowingly and intentionally distributed:

a. a mixture or substance containing a detectable amount of fentanyl, also known as N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl], a Schedule II controlled substance; and

b. a mixture or substance containing a detectable amount of cocaine, a Schedule II controlled substance.

In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C).

COUNT SEVEN

[18 U.S.C. §§ 922(a)(6) and 924(a)(2)]

On or about February 5, 2022, in the Southern District of Ohio, defendant **LAMAR WARDELL SWAIN** and another person known to the Grand Jury, aiding and abetting each other, in connection with the acquisition of a firearm -- namely, a Glock handgun -- from Range USA (a licensed dealer of firearms within the meaning of Chapter 44, Title 18, United States Code), knowingly made and caused to be made a false and fictitious written statement to

Range USA, which statement was intended and likely to deceive Range USA as to a fact material to the lawfulness of such sale of this firearm.

In violation of Title 18, United States Code, Sections 922(a)(6), 924(a)(2) and 2.

COUNT EIGHT

[21 U.S.C. §§ 841(a)(1) & (b)(1)(C)]

On or about March 3, 2022, in the Southern District of Ohio, defendants **LAMAR WARDELL SWAIN** and **JAVONTE MICHAEL SWAIN**, aiding and abetting each other, knowingly and intentionally possessed with intent to distribute a mixture or substance containing a detectable amount of fentanyl, also known as N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl], a Schedule II controlled substance.

In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C), Title 18, United States Code, Section 2, and *Pinkerton v. United States*, 328 U.S. 640 (1946).

COUNT NINE

[18 U.S.C. § 924(c)(1)(A)(i)]

On or about March 3, 2022, in the Southern District of Ohio, defendant **JAVONTE MICHAEL SWAIN** knowingly possessed a firearm in furtherance of a drug trafficking crime for which he may be prosecuted in a court of the United States, namely - possession with intent to distribute controlled substances, in violation of Title 21, United States Code, Section 841(a)(1), as alleged in Count Eight of the Indictment.

In violation of Title 18, United States Code, Sections 924(c)(1)(A)(i).

COUNT TEN

[18 U.S.C. § 924(c)(1)(A)(i)]

On or about March 3, 2022, in the Southern District of Ohio, defendant **LAMAR WARDELL SWAIN** knowingly possessed a firearm in furtherance of a drug trafficking crime for which he may be prosecuted in a court of the United States, namely - possession with intent to distribute controlled substances, in violation of Title 21, United States Code, Section 841(a)(1), as alleged in Count Eight of the Indictment.

In violation of Title 18, United States Code, Sections 924(c)(1)(A)(i).

FORFEITURE ALLEGATION

Upon conviction of one or more offenses set forth in Counts One, Three, Five, Six, or Eight of this Indictment, defendants **LAMAR WARDELL SWAIN** and **JAVONTE MICHAEL SWAIN** shall forfeit to the United States, pursuant to 21 U.S.C. § 853(a), (1) any property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of such violation, and (2) any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

SUBSTITUTE ASSETS

If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- cannot be located upon the exercise of due diligence;
- has been transferred or sold to, or deposited with, a third party;
- has been placed beyond the jurisdiction of the court;
- has been substantially diminished in value; or
- has been commingled with other property which cannot be divided without difficulty;

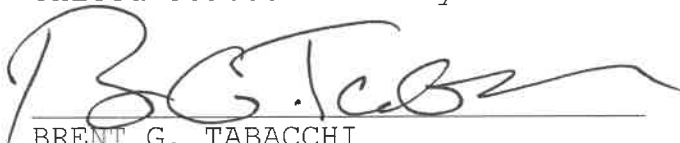
it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), or as incorporated by 28 U.S.C. § 2461(c), to seek forfeiture of any other property of said defendant, up to the value of the forfeitable property.

A TRUE BILL



Foreperson

KENNETH L. PARKER
United States Attorney



BRENT G. TABACCHI
KELLY K. ROSSI
Assistant United States Attorneys